

BEFORE THE STATE AUDITOR  
AND COMMISSIONER OF INSURANCE  
HELENA, MONTANA

IN THE MATTER OF:	)	Case No. 2001-32
	)	
THE PROPOSED DISCIPLINARY	)	Consent Agreement
TREATMENT OF LIBERTY	)	
NORTHWEST INSURANCE	)	
CORPORATION,	)	
	)	
Respondent.	)	

I.

The Montana Insurance Commissioner (Commissioner), pursuant to the authority of the Insurance Code of Montana, Section 33-1-101, et seq., Mont. Code Ann. (2001), determines that there is reason to believe that the following allegations, if true, justify and support disciplinary treatment.

ALLEGATIONS

1. In 1988, the Commissioner issued Liberty Northwest Insurance Corporation (Liberty) a certificate of authority for multiple lines, to include casualty insurance. Workers compensation is a type of casualty insurance.

2. In 1999, Liberty initiated a field binding program for workers compensation insurance in an attempt to facilitate sales to small businesses in Montana.

3. In January 2002, Montana State Auditor employee Mari Gray, P&C Actuary (Gray), examined materials from roughly 300 files pertaining to rates of Liberty insureds. Gray determined the following from examining the file materials:

a. Schedule Rating Issue. Gray has found what appears to be the use of

LNW 3120 7/00; and Rev. – 1/99. The following summarizes the number of policies per unfiled plan:

- (1). LNW 3120 5/99 72 policies
- (2). LNW 3120 7/00 23 policies
- (3). Rev. 1/99 2 policies
- (4). On an additional 96 policies Liberty states that the field binding program, which is one of the three listed plans above, was utilized.

b. Additional Schedule Rating Plan Issues.

(1). On 79 of the policies, Liberty utilized both their approved filed plan and either Liberty 3120 5/99 or Liberty 3120 7/00. Liberty appeared to determine the premium by filling out an unfiled plan and then appeared to fill out a filed plan so that it appeared that they were using a filed plan.

(2). On 21 of the policies Liberty stated that it utilized a methodology similar to that utilized in 3.b.(1) above.

(3). On 3 of the policies, Liberty stated that it utilized methodology similar to that utilized in 3.b.(1) above.

c. Premium Deferral.

(1). On 124 policies Liberty utilized what is called a 10% “premium deferral.”

(2). On 1 policy Liberty utilized what it calls a 15% “premium deferral.”

(3). On 2 policies, Liberty utilized what it calls a 5% “premium deferral.”

## CONCLUSIONS

1. Person includes an insurer pursuant to section 33-1-202, MCA.
2. The commissioner issued Liberty a certificate of authority in 1988 to transact multiple lines of insurance in 1988, pursuant to section 33-2-101, MCA. One of the lines of insurance was casualty, which includes workers compensation. Section 33-2-206, MCA.
3. Pursuant to the facts alleged in #3.a. and 3.b., Liberty may have violated section 33-16-1026(2), MCA in using a rate that wasn't filed for use in this state.
4. Pursuant to the facts alleged in 3c, Liberty may have violated section 33-16-1026(2), MCA in using a rate that wasn't filed for use in this state.

## II.

Liberty Northwest Insurance Corporation (Liberty) stipulates and consents to the following:

- A. To pay a fine of \$50,000;
- B. Remove the "premium deferral" from all premium calculation worksheets and the calculation of all "premiums" and utilize an endorsement similar in nature to the attached "Interim Premium Endorsement." This endorsement must be filed not later than January 1, 2003;
- C. Liberty will provide to the SAO copies of sample premium quote forms utilizing the new methodology by January 1, 2003;
- D. To waive the right to a hearing on the allegations and by entering into this consent, Liberty neither admits nor denies the allegations;
- E. Liberty understands that the Consent Agreement is a part of the file, which is a public

record. As a public record it may not be sealed; and

F. Both parties understand that this Consent Agreement constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied.

III.

Pursuant to the stipulation and consent of Liberty, the Commissioner, under the authority of the Insurance Code of Montana and Section 2-4-603, MCA, hereby agrees that if the terms and conditions of this Consent Agreement are fully met, he will not initiate any civil or administrative action against Liberty regarding the allegations contained therein pursuant to Sections 33-1-317 and 33-17-1001, MCA. In consideration for the Commissioner not initiating any civil or administrative action, Liberty fully and forever releases and discharges the Office of the State Auditor and all State Auditor employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the above entitled administrative action.

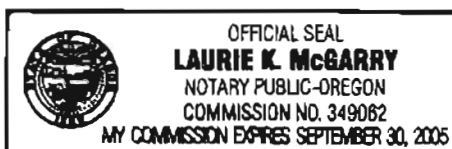
Dated this 11<sup>TH</sup> day of November, 2002.

RESPONDENT:  
LIBERTY NORTHWEST INSURANCE  
CORPORATION

David R Davidson  
By: DAVID A. DAVIDSON  
Its: EXECUTIVE VICE PRESIDENT

Subscribed and Sworn to before me this 11<sup>TH</sup> day of November, 2002.

(SEAL)



Laurie K. McGarry  
Notary Public for the State of Oregon  
Residing at Lake Oswego, OR

My Commission Expires 9/30/05

STATE AUDITOR AND COMMISSIONER  
OF INSURANCE

By: 

Kevin F. Phillips

Staff Attorney

Department of Insurance

BEFORE THE STATE AUDITOR  
AND COMMISSIONER OF INSURANCE  
HELENA, MONTANA

IN THE MATTER OF:	)	CASE NO. 2001-32
	)	
THE PROPOSED DISCIPLINARY	)	NOTICE OF PROPOSED AGENCY
TREATMENT OF LIBERTY	)	ACTION AND OPPORTUNITY FOR
NORTHWEST INSURANCE	)	HEARING (LICENSE DISCIPLINE
CORPORATION,	)	AND ADMINISTRATIVE FINE)
	)	
Respondent.	)	
	)	
	)	

TO: Liberty Northwest Insurance Corporation  
P.O. Box 4400  
Portland, OR 97208-4400

PLEASE TAKE NOTICE

Staff of the Insurance Division of the office of the State Auditor and Commissioner of Insurance of the state of Montana (Commissioner), pursuant to the authority of the Insurance Code of Montana, Section 33-1-101, et seq., Montana Code Annotated (1999) (MCA), is proposing to the Commissioner that he take disciplinary action against the entity named above for violations of the Montana Code. The Commissioner may impose a fine pursuant to Section 33-16-1035, MCA.

Service of process is pursuant to section 33-1-314, MCA.

REASONS FOR ACTION

There is probable cause to believe that the following facts, if true, justify and support such disciplinary treatment.

ALLEGATIONS

1           1.     Liberty Northwest Insurance Corporation is utilizing  
2 the W.C. Field Binding Program in Montana.

3           2.     Liberty Northwest Insurance Corporation has not filed  
4 the schedule rating plan contained in the W.C. Field Binding  
5 Program with the Montana Commissioner of Insurance.

6                               CONCLUSIONS

7           1.     Liberty Northwest Insurance Corporation is in violation  
8 of section 33-16-1023, MCA.

9                               STATEMENT OF RIGHTS

10           You are entitled to a hearing and to respond to this notice  
11 and present evidence and arguments on all issues involved in this  
12 case. You may have a formal hearing before a hearing examiner  
13 appointed by the Commissioner. This is provided for by the  
14 Montana Administrative Procedure Act, sections 2-4-601, MCA, and  
15 following, including Section 2-4-631, MCA. If you demand a  
16 hearing, you will be given notice of the time, place and the  
17 nature of the hearing. Pursuant to section 33-1-701(2), the  
18 hearing shall be held within 30 days after receipt of the demand  
19 by the commissioner, unless postponed by mutual consent.

20           You have a right to be represented by an attorney at any and  
21 all stages of this proceeding.

22           If you want to resist the proposed action under the  
23 jurisdiction of the Commissioner, you must so advise him within  
24 fifteen (15) days of the date you receive this notice. You may  
25 so advise him by writing to Kevin Phillips, Insurance Attorney,



1 State Auditor's Office, 840 Helena Ave, Helena, Montana 59601.  
2 While so advising Mr. Phillips, you should make clear whether you  
3 demand a hearing, or whether you waive formal proceedings and, if  
4 so, what informal proceedings you prefer for handling this case.  
5 Pursuant to section 2-4-603(2), Mont. Code Ann., you may not  
6 request to proceed informally if the action could result in  
7 suspension, revocation or any other adverse action against a  
8 professional license.

9 Should you request a hearing, you have the right to be  
10 accompanied, represented, and advised by counsel. If the counsel  
11 you choose has not been admitted to practice law in the state of  
12 Montana, he or she must comply with the requirements of  
13 Application of American Smelting and Refining Co., (1973), 164  
14 Mont. 139, 520 P.2d 103.

#### 15 CONTACT WITH INSURANCE COMMISSIONER'S OFFICE

16 If you have questions or wish to discuss this matter, please  
17 contact Kevin Phillips, legal counsel for the State Auditor, at  
18 P.O. Box 4009, Helena, MT, 59604-4009, (406)444-3496 or, within  
19 Montana, (800)332-6148. If you are represented by an attorney,  
20 please make any contacts with this office through your attorney.

#### 21 POSSIBILITY OF DEFAULT

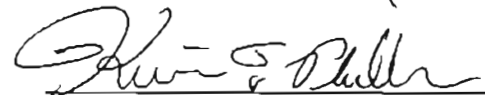
22 Failure to give notice or to advise of your demand for a  
23 hearing or form of informal procedure within fifteen (15) days,  
24 will result in the entry of a default order imposing the  
25 disciplinary sanctions against you and your license, all without

1 any more notice to you, pursuant to 6.2.101, Administrative Rules  
2 of Montana and the Attorney General's Model Rule 10, 1.3.214.

3 DATED this 10<sup>th</sup> day of July, 2001.

4 JOHN MORRISON  
5 State Auditor and  
6 Commissioner of Insurance

7 By:



8 Kevin F. Phillips  
9 Insurance Attorney  
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